
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058
INDIANAPOLIS, IN 46204
PHONE (317) 232-3773
FAX (317) 232-8779

TO: School Superintendents

FROM: Budget Division, Department of Local Government Finance

SUBJECT: Excessive Levy Appeals

DATE: June 2004

NOTE: Excessive levy appeal requests must be filed before September 20, 2004.

There are six types of excessive levy appeals that a school corporation may request to the Department of Local Government Finance.

- A) Operating Cost of a New Facility (IC 6-1.1-19-4.4)
- B) Emergency Financial Relief (IC 6-1.1-19-4.5(b))
- C) Property Tax Levy Shortfall (IC 6-1.1-19-4.7)
- D) Referendums (IC 6-1.1-19-4.5)
- E) Transportation Operational Increase (IC 6-1.1-19-5.4)
- F) Transfer Tuition (IC 6-1.1-19-5.1)

A School Corporation may appeal to the Department of Local Government Finance for approval of an excessive levy appeal **BEFORE SEPTEMBER 20**. The appeal petition should be made by resolution of the School Corporation's governing body along with a detailed statement of facts. A suggested outline of the appeal petition is attached.

APPEAL PROCEDURES:

- 1) The School Corporation advertises a budget and levy for the ensuing year. A public hearing is held pursuant to IC 6-1.1-17-3. The advertised budget and levy should include the school's excessive levy amount.
- 2) The School Corporation must advertise the total amount of excessive levy appeal within the estimated budget levy and on the excessive levy appeal line on budget form 3. **The appeal amount must be advertised on both the excessive levy appeal line and included in the estimated general fund or transportation fund levy. Failure to include the appeal levy in both places may result in denial of the appeal request.**

- 3) The School Corporation adopts the proposed or modified budget, rate and levy for the ensuing year on or before September 20, as required by IC 6-1.1-17-5.
- 4) The governing body may adopt an appeal resolution on the adoption date, after adopting the budget, rate and levy, before September 20. **Appeal petitions are sent to the Department of Local Government Finance office in INDIANAPOLIS.**
- 5) Copies of the annual budgets are forwarded to the County Auditor, as provided by statute. The budget is reviewed by the County Board of Tax Adjustment. The tax adjustment board, or in the absence of such board the county auditor, may not approve an excess levy. For this reason, appeals to the Department of Local Government Finance for excessive levies are also considered appeals against the action of the tax adjustment board.
- 6) Department of Local Government Finance Hearing Officers conduct annual budget hearings. The Hearing Officer will consider the appeal in the budget, rate and levy recommended for approval.
- 7) Following receipt of the School Corporation's appeal petition by the Department of Local Government Finance in Indianapolis, the matter will be referred to the School Property Tax Control Board (SPTCB). The School Corporation will be notified of the time and the place of their hearing. School officials may be asked to supply information the Control Board feels pertinent to the appeal. Following the SPTCB Hearing, a recommendation on the excessive levy appeal request will be forwarded to the Department of Local Government Finance (Department).
- 8) The Department will consider the SPTCB recommendation along with other pertinent information and make a final decision. The School Corporation will be notified of the Department's final action on the excess levy request.
- 9) The Department will not consider excessive levy appeals that are in excess of three years old. A school asking for consideration of an appeal will be held to this timetable.

NOTE: If your School Corporation has not been notified by December 1 of an excessive levy appeal hearing date, immediately contact the Budget Division.

The following information is required for filing an excessive levy appeal.

- 1) Proofs of publication for the ensuing budget year;
- 2) School board resolution to adopt an excessive levy appeal;
- 3) Completed excessive levy appeal application;
- 4) A petition requesting consideration of an excessive levy appeal; and
- 5) Any other information related to the excessive levy appeal request.

A) NEW FACILITY APPEAL IC 6-1.1-19-4.4

A school corporation may appeal for an increase of its adjusted base levy due to the opening and operation of a new facility. The SPTCB will consider the increased cost in complying with safety, health, space, heat or lighting standards and other physical operating cost which justify an increase in the corporation's base levy. Increased costs due to certified staff, transportation, or curriculum will not be considered. A completed information sheet will be requested of all school corporations requesting this type of appeal. A copy of the current information sheet is attached.

The School Corporation is required to notify taxpayers of any projected new facility appeals as part of the process of incurring debt for a capital project. This is to alleviate any concerns about hidden costs associated with new construction projects and to provide taxpayers with a more realistic estimate of costs.

Additional costs associated with a new facility appeal should be broken down as requested on the attached worksheet.

The Department cannot approve a levy increase resulting from a new facility appeal in an amount that would allow the school corporation to collect a levy in excess of that initially advertised and adopted by the appellant school corporation. The levy increase from this type of appeal is a permanent portion of the corporation's adjusted base levy.

Information sheets are attached for use in requesting a new facility appeal.

B) APPEALS FOR EMERGENCY FINANCIAL RELIEF IC 6-1.1-19-4.5

A school corporation, that resolves it cannot carry out its educational duty committed to it by law, may appeal for emergency financial relief. The budget, rate and levy adopted by the School Corporation should accommodate the anticipated needs for the ensuing year. The appeal resolution should contain a detailed statement of facts and be sent to the Department in Indianapolis.

The Department will refer the petition to the SPTCB. Additional information may be requested from the School Corporation to support its contentions. The control board will review the information and conduct a hearing. If it concludes that Emergency Financial Relief is needed, a recommendation will be made to approve one or more of the following forms of relief:

- “1) a grant or grants from any funds of the state that are available for such purpose;
- 2) a loan or loans from any funds of the state that are available for such purpose;
- 3) permission of the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;
- 4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;
- 5) permission of the school corporation to:
 - (A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or

- (B) use for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;
- 6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or
- 7) a combination of the emergency financial relief described in (1) through (6).

The control board may also recommend an excessive tax levy for the ensuing year. However, the excess tax levy would require a *referendum* be conducted in accordance with law. For referendum purposes, the School Corporation must provide the SPTCB and DLGF Commissioner the maximum tax rate requested of taxpayers.

If the relief approved is a loan, the Department may authorize the School Corporation to collect a general fund excess levy for repayment of the loan. This excessive levy may not be collected for more than one in every four calendar years. (See IC 6-1.1-19-4.5(d)) Emergency Financial Relief does not result in a permanent increase in the corporation's adjusted base levy.

Along with the relief granted, the School Corporation must obtain approval from the SPTCB and the DLGF before taking the following actions:

- i) Acquisition of real estate, construction of new buildings, and renovation and remodeling of existing buildings, and;
- ii) Making any lease of real or personal property, or other contractual obligation exceeding \$10,000. Employment contracts for new employees superseding the contract of an existing employee are exempt from this restriction.
- iii) Purchase of personal property in consideration of more than \$10,000.
- iv) The advertisement or adoption of a budget, rate or levy.

Information sheets are attached for use in requesting an appeal for emergency financial relief.

C) SCHOOL SHORTFALL APPEAL IC 6-1.1-19-4.7

A school corporation may appeal for the purpose of making up a property tax shortfall that resulted when erroneous assessed values were used to determine the corporation's tax rate, and the error was discovered after the Department approved the tax rates. When delinquencies in property tax payments occur, shortfall appeals are not applicable.

As previously noted, the School Corporation would advertise and adopt a levy that includes the increase to make up the shortfall. The appeal petition should describe the facts relating to the shortfall, if known. In

extreme circumstances, the School Corporation may also request emergency financial relief for the current year due to the loss of shortfall income. The petition will be referred to the SPTCB, who may require additional information from the School Corporation for its recommendation.

Normally, a school corporation discovers the existence of a levy shortfall in late December and is unable to appeal until the following year. In this case, the documents would be readily available. They should include information from the County Auditor about the actual assessed value, certificates of errors issued, refunds made and copies of Form 22, Auditor's Certificate of June and December Tax Distribution. If the School Corporation has been informed of a current year shortfall, the issue cannot be determined until the tax distribution is made in late December. The Department will attempt to accommodate special circumstances regarding current year shortfalls whenever possible, but only when the appeal is necessitated by the school's financial position.

The levy increase to recover a shortfall is not a permanent increase to the School Corporation's adjusted base levy. If a levy increase is recommended by the SPTCB, and approved by the Department, then the annual approval order will contain the levy increase. The School Corporation will be notified by mail if the appeal is denied.

Schools may file a shortfall appeal through December 31, 2004 for 2005 budget purposes. The shortfall appeal form allows school corporations the opportunity to forward the shortfall appeal directly to the Commissioner for consideration in lieu of a hearing with the School Property Tax Control Board. School corporations that wish to defer action on the shortfall appeal must indicate so on the shortfall appeal form. Schools are still head to the advertisement and adoption process for a current year shortfall.

An information sheet is attached for requesting a property tax shortfall appeal.

D) REFERENDUMS IC 6-1.1-19-4.5(e)

A school corporation may petition the Department of Local Government Finance for permission to conduct a referendum to increase its adjusted base levy. The appeal petition should state whether the proposed referendum would be used to fund new programs or existing financing, and the amount of the increase to the adjusted base levy requested. A referendum is an increased levy raised through a special fund titled, "referendum fund" for a period not to exceed seven (7) years. However, a referendum tax levy may be reimposed or extended under the law.

The petition will be forwarded to the SPTCB who will inform the School Corporation of a date and time for a hearing on the issue. If the Department of Local Government Finance approves the referendum, the Administrative Officer of the SPTCB will certify the question to the County Clerk for submission to the voters in the school district. The County Clerk will call a meeting of the county election board to make the arrangements for the referendum after receiving the question.

The referendum shall be held in the next general election if one is to be held no more than sixty (60) days after the question is so certified to the County Clerk. If a general election is not to be held within sixty (60)

days after receiving the certified question, a special election shall be held not sooner than sixty (60) days after the question is certified. The School Corporation may request a date for the special election to be held, and if practicable, the election will be held on that date. If the referendum cannot be held in a general election, the School Corporation will pay the cost of the election. If the majority of voters in a referendum to allow the school corporation to impose a referendum tax levy do not vote to approve the levy, another referendum may not be held for a period of one year.

Pursuant to IC 21-2-11.6, a school corporation may impose a referendum tax levy in an amount allowed under IC 6-1.1-19-4.5(c) for the school corporation. *Property tax collections from the implementation of the referendum fund tax levy will be deposited in the referendum fund and used for any lawful school expenses.* The referendum fund is not eligible for property tax replacement credits.

School corporations pursuing a referendum appeal must provide the School Property Tax Control Board and Commissioner of the Department of Local Government Finance with the maximum tax rate under consideration by taxpayers. If the referendum is successful, school corporations will be held to the lesser of the maximum tax rate or maximum tax levy advertised or adopted for referendum purposes.

E) TRANSPORTATION OPER. INCREASE OF AT LEAST TEN PERCENT IC 6-1.1-19-5.4

A school corporation may appeal to the Department to increase the maximum operating costs levy that is permitted for the school corporation's operating costs account for the transportation fund under IC 21-2-11.5.

IC 6-1.1-19-5.4 reads, "(a) A school corporation may appeal to the Department of Local Government Finance under this chapter to increase the maximum operating costs levy that is permitted for the school corporation's operating costs account for its transportation fund established under IC 21-2-11.5. To be granted an increase by the Department of Local Government Finance, the school corporation must establish that the increase is necessary because of a transportation operating increase of at least ten percent (10%) over the preceding year as the result of at least one (1) of the following:

- 1) A fuel expense increase.
- 2) A significant increase in the number of students enrolled in the School Corporation that need transportation or a significant increase in the mileage traveled by the school corporation's buses compared to the previous year.
- 3) A significant increase in the number of students enrolled in special education that need transportation or a significant increase in the mileage traveled by the school corporation's buses due to students enrolled in special education as compared to the previous year.
- 4) Increased transportation operating costs due to compliance with a court ordered desegregation plan addition, before the Department may grant a maximum operating costs account levy, the school corporation must establish that the school corporation will be unable to provide transportation

services without an increase. The Department may grant a maximum operating costs levy increase that is less than the increase requested by the School Corporation.

5) The closure of a school building within the School Corporation that results in a significant increase in the distances that students must be transported to attend another school building.

(b) If the Department of Local Government Finance determines that a permanent increase in the maximum permissible operating costs levy is necessary, the maximum operating costs levy after the increase granted under this section becomes the school corporation's maximum permissible transportation fund's operating costs account levy under IC 21-2-11.5."

The Department cannot approve a levy increase resulting from a transportation operating increase that would authorize the school corporation to collect a levy in excess of that initially advertised and adopted by the appellant school corporation. The levy increase from this type of appeal is a permanent portion of the corporation's Transportation Maximum Levy limit.

Information sheets are attached for use in requesting a transportation appeal.

This is the formula the Department of Local Government Finance uses to review transportation operating appeals.

$$\frac{\text{2005 budget}}{\text{2004 budget}} = \% \text{ increase in budget}$$

$$\% \text{ increase in budget minus maximum levy growth factor multiplied by 2005 transportation maximum levy} = \text{Levy Increase Allowed}$$

For example:

2005 budget = \$6,151,060

2004 budget = \$5,064,791

Maximum levy growth factor = 1.05

2005 Transportation maximum levy - \$3,556,115

$$6,151,600 / 5,064,791 = 1.2146 - 1.05 = 1.1646. \quad .1646 \times 3,556,115 \text{ is approximately } \$585,270 \text{ (rounded)}$$

F) TRANSFER TUITION IC 6-1.1-19-5.1

IC 6-1.1-19-5.1 reads, "(a) A school corporation may conduct an analysis of the school corporation's:

(1) total transfer tuition payments actually made or estimated to be made on behalf of students transferring from the school corporation; and

(2) total revenue actually received or estimated to be received by the school corporation on behalf of students transferring from the school corporation;

to determine the net financial impact of transfer tuition on the particular school corporation for the school year ending in the calendar year immediately preceding the ensuing calendar year or the calendar year that immediately precedes the ensuing calendar year by two (2) years, or both. If the school corporation determines from the analysis that the amount of revenue received by the school corporation under subdivision (2) is less than the amount of transfer tuition payments made by the school corporation under subdivision (1) and subdivision (2) amounts in the school corporation's appeal for an excessive levy under this chapter. However, a school corporation may not include the amount of a particular deficit in more than one (1) appeal.

(b) A school corporation may appeal to the Department of Local Government Finance under this chapter to increase the school corporation's maximum permissible general fund levy for the following year by the amount described in subsection (a). Upon demonstration by the school corporation to the Department of Local Government Finance that the amount of the transfer tuition payments received by the school corporation under subsection (a)(2) is less than the amount of transfer tuition payments made by the school corporation under subsection (a)(1), the Department shall grant the increase described in this section.

(c) If a school corporation is granted an increase under this section, the amount attributable to the increase may not be included in the school corporation's adjusted base levy for the year following the year in which the increase applies or the school corporation's determination of tuition support.

(d) A levy increase described in this section may be based on an estimate of transfer tuition payments paid or received by a school corporation. If the actual difference between the transfer tuition payments made by a school corporation and the transfer tuition payments received by a school corporation for a school year is less than the estimate used to grant a levy increase described in this section, the Department of Local Government Finance may reduce the levies imposed by a school corporation by the amount of the overage.

MATHEMATICAL ERRORS IC 6-1.1-19-5.3

In addition to the appeals previously mentioned, the SPTCB may recommend to the Department for the correction of the data errors which affect the adjusted base levy, excessive tax levy, and maximum normal levy of a school corporation.

The Department may correct mathematical errors in data for any school corporation.

